

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 101, “Falconry Regulations,” Iowa Administrative Code.

The proposed changes are requested by Department staff and the Iowa Falconers Association (IFA) to update the existing rules and align them with recent changes made to the Code of Federal Regulations by the U.S. Department of the Interior, Fish and Wildlife Service’s Migratory Bird Office.

Any interested person may make written suggestions or comments on the proposed amendments on or before September 7, 2010. Such written materials should be directed to Steve Derman, Department of Natural Resources, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-6794; or E-mail steve.derman@dnr.iowa.gov. Persons who wish to convey their views orally should contact the Law Enforcement Bureau at (515)281-4515.

Also, there will be a public hearing on August 31, 2010, at 9 a.m. in the Fourth Floor East Conference Room of the Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa. At the public hearing, persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special needs, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources and advise of specific needs.

These amendments are intended to implement Iowa Code chapter 481A.

The following amendments are proposed.

ITEM 1. Amend rule 571—101.1(481A) as follows:

571—101.1(481A) Falconry regulations. No person may take, transport, or possess any raptor without having first obtained a valid state/federal falconer’s permit. ~~Only raptors from the family Accipitridae (excluding the bald eagle), the family Falconidae, and the great horned owl of the family Strigidae may be taken, transported, or possessed, except any species listed as endangered or threatened.~~ Falconry permit holders shall comply with the department’s rules and with the current Code of Federal Regulations pertaining to falconry. Only the following raptors may be taken from the wild: American kestrel, Cooper’s hawk, Ferruginous hawk, Goshawk, Great horned owl, Gyrfalcon, Harris’ hawk, Merlin, Prairie falcon, Red-tailed hawk, Rough-legged hawk, and Sharp-shinned hawk. Raptors taken from the wild shall not be sold, bartered or traded. All wild raptors legally trapped or taken by a resident or nonresident falconer must be marked with an Iowa marker band provided by the department.

101.1(1) ~~Said A falconry permit allows for the purchase, capture, possession and use of designated legal raptors in hunting,~~ subject to state regulations.

101.1(2) A falconry ~~license permit~~ may be issued to any person 14 ~~or more~~ years of age ~~or older~~ who has successfully passed a written examination provided ~~or by the department and approved by the~~ U.S. Department of the Interior covering basic biology, care and handling of raptors, laws, regulations or other appropriate subject matter, with a minimum score of 80 percent, and who has satisfied the minimum requirements for keeping raptors as determined by inspection of the applicant’s facilities. In the event an individual fails the examination, this individual may reapply.

101.1(3) There shall be three classes of ~~falconer’s~~ falconer permits as follows:

a. Apprentice falconer.

(1) ~~Applicant~~ An applicant shall be at least 14 years old. ~~A~~ and shall have a sponsor who is a holder of a general or master falconry license ~~is required for the first two years in which an apprentice permit is held, regardless of the age of the permittee~~ permit and who has at least two years of active experience as a general falconer. A qualifying sponsor must submit a signed letter to the department in which the sponsor agrees to assist and mentor the apprentice falconer for the duration of the apprenticeship. A sponsor may have no more than two apprentices at any one time.

(2) Apprentice permit holders shall not possess more than one raptor and may not obtain more than one raptor for replacement during any 12-month period. Apprentice permit holders shall possess only a red-tailed hawk (*Buteo jamaicensis*). Apprentice permit holders shall be restricted from taking nestling or fledgling birds.

(3) A sponsor has the right to withdraw sponsorship at any time and, upon withdrawal, must submit a signed letter to the department requesting withdrawal of sponsorship. If an ~~apprenticeship~~ apprentice falconer fails to successfully complete the required two-year apprenticeship, the red-tailed hawk ~~will~~ shall be transferred to the sponsor of record. The sponsor will be required to properly care for the bird until it is transferred to another falconer or hatched back into the wild.

(4) Upon completion of the apprenticeship requirements, the apprentice's sponsor must submit a signed letter of endorsement confirming that the apprentice has satisfied the terms and conditions of the apprenticeship as required by these rules and approved by the department and the Iowa Falconers Association (IFA) Apprenticeship Guideline Manual.

b. General falconer. ~~Applicant~~ An applicant shall be at least 18 years old. ~~Applicant~~ An applicant shall have at least two ~~years~~² years of field experience in the practice of falconry at the apprentice level or its equivalent; ~~this shall be field experience and~~ the mere keeping of raptors shall not count as field experience and ~~will be~~ is strongly discouraged. General ~~license~~ permit holders shall not possess more than ~~two~~ three raptors and may not take more than one raptor for a replacement bird from the wild during any 12-month period. Licensed general class falconers may purchase properly marked captive-bred raptors only from a federally licensed raptor ~~propagator~~ propagators.

c. Master falconer. ~~Applicant~~ An applicant shall have at least five ~~years~~² years of field experience in the practice of falconry at the general level or its equivalent. The keeping of raptors without actively hunting the bird(s) shall not be considered field experience. A master falconer shall possess no more than ~~three~~ five raptors at any one time and be permitted to take no more than two replacement birds from the wild in any 12-month period. ~~Licensed master~~ Master class falconers may purchase properly marked captive-bred raptors only from a federally licensed raptor ~~propagator~~ propagators.

101.1(4) ~~All falconry~~ Falconry permits are \$61.50, are valid for a three-year period, and are nontransferable ~~and~~. Permits shall expire June 30 of the third year after issuance. Permits may be renewed without examination following the falconer's submission of an annual report of birds possessed during the previous year and provided that the department of natural resources is satisfied as to the competency of the applicant whose permit has expired.

101.1(5) A federal raptor propagation permit is required before any ~~person~~ raptor propagator may take, possess, transport, sell, purchase, barter, or transfer any captive-bred raptor, raptor egg, or raptor semen for propagation or sale purposes.

This rule is intended to implement Iowa Code section 481A.48 and conforms to the federal regulations promulgated under the "Migratory Bird Treaty Act."

ITEM 2. Amend paragraph **101.2(1)"c"** as follows:

c. Outdoor facilities. Outdoor facilities (weathering area) shall be fenced and covered with netting or wire, or roofed to protect the birds from disturbance and attack by predators ~~except that perches more than 6½ feet high need not be covered or roofed.~~ The enclosed area shall be large enough to ensure the birds cannot strike the fence when flying from the perch. Protection from excessive sun, wind, and inclement weather shall be provided for each bird. Adequate perches shall be provided.

ITEM 3. Amend subrule 101.2(2) as follows:

101.2(2) Equipment. The following items shall be in the possession of the applicant before the applicant can obtain a permit ~~or license~~.

a. *Jesses.* At least one pair of Alymeri jesses or similar-type jesses constructed of pliable, high-quality leather or suitable synthetic material to be used when any raptor is flown free. (Traditional one-piece jesses may be used on raptors when the raptors are not being flown.)

b. to d. No change.

e. *Weighing device.* A reliable working scale or balance suitable for weighing the raptor(s) held and graduated to increments of not more than ~~one-half ounce (15 gram)~~ two-tenths of an ounce, or five grams, shall be provided by the falconer.

f. and g. No change.

ITEM 4. Amend rule 571—101.3(481A) as follows:

571—101.3(481A) Taking and possession provision. The taking of raptors from the wild ~~in Iowa~~ by resident falconers shall be limited to the following conditions:

101.3(1) Nestling birds may be taken only by general class or master class permit holders. ~~All wild raptors legally trapped or taken by a resident falconer must be marked with a black federal marker band provided by the department.~~

101.3(2) Young birds not yet capable of flight may be taken at any time following hatch, ~~provided, however, that an individual by a general class or master class falconer.~~ The falconer may take no more than two nestlings, and ~~that~~ at least one nestling shall be left in any nest from which a nestling is taken. The taking of nestlings and ~~branchers~~ is permitted only between ~~May 21~~ April 1 and ~~June 30~~ July 31. Removal of eggs from nests is prohibited.

101.3(3) First year (passage) birds shall be taken only from ~~September 15~~ August 1 through ~~January March~~ March 31.

101.3(4) Only American kestrels (*Falco sparverius*) and great horned owls (*Bubo virginianus*) may be taken when over one year old; however, the permissible period for taking shall be no different than that prescribed for passage birds of all other legal species.

101.3(5) No permittee shall employ any method of taking raptors which is injurious to the bird.

101.3(6) Any species except endangered or threatened species or exotic birds, the import of which has been banned by the international convention, federal regulation or the ~~natural resource commission~~ department of natural resources, may be possessed and used for falconry provided the license holder can provide evidence that the bird was legally acquired, ~~and provided that no~~. ~~No one may import a raptor into Iowa or export a raptor out of Iowa, for a period greater than 30 days, without having first obtained written permission of the department of natural resources.~~

101.3(7) Recapture. Banded raptors that are lost to the wild through accident may be retrapped provided that the department of natural resources has been advised of the loss and is notified of the attempt to recapture. ~~Should~~ If the banded raptor ~~be~~ is recaptured, the department of natural resources shall be notified of the recovery within 48 hours.

101.3(8) Nonresident raptor trapping. A permit may be issued upon application by a nonresident for the purpose of taking a raptor in Iowa, provided that the applicant's resident state is listed in Paragraph (K), Subpart C, Part 21-29, Chapter 1, of Title 50, Code of Federal Regulations, as a participating state, and the applicant's resident state ~~issues nonresident raptor trapping permits or licenses, or otherwise provides for the taking of raptors by nonresidents.~~ Nonresidents shall submit a photocopy of a ~~valid import permit from their resident state and a photocopy of a current,~~ valid, state ~~or~~ federal falconry permit. Nonresident raptor trapping permits shall be issued only in the general class or master class.

a. *Trapping provisions.* Trapping of raptors in Iowa by ~~nonresidents~~ permitted nonresident falconers shall be limited to the following species: ~~red-tailed hawk, American kestrel, and great horned owl~~ legal species listed in these rules.

b. *Marking requirements.* Raptors legally trapped by nonresidents must be marked with a ~~black federal~~ Iowa marker band provided by the department. No raptor shall be transported from Iowa without first having had the ~~black~~ Iowa marker band attached. Permittees may, with written permission

from the department, provide their own black marker band issued by their state of residency. Permittees who provide their own black marker band shall place the band on the raptor immediately upon capture, and must notify the department within five days of the capture and of the corresponding black marker band number.

c. *Fees.* Fees for nonresident raptor trapping applications shall be reciprocal to the fee charged by the applicant's resident state. If the applicant's resident state does not provide for a nonresident raptor trapping fee, then the Iowa nonresident raptor trapping application fee shall be \$50 \$100.

d. *Restrictions.* Nonresident falconers may apply for one raptor trapping permit per trapping season. All nonresident raptor trapping permits shall be valid for a period not to exceed 60 consecutive days, beginning on the date of issuance. No nestlings or raptor eggs may be taken. First year (passage) birds may be taken only from September ~~15~~ 1 through January 31. The nonresident raptor trapping permit shall be valid for only one raptor of the species designated on the permit. The raptor trapping permit shall be carried by the permittee while in the act of trapping and the transportation of any subsequently trapped raptor.

ITEM 5. Amend rule 571—101.4(481A) as follows:

571—101.4(481A) Annual reports. Each holder of a falconer's permit shall submit an annual report to the department of natural resources by July 31 of each year. This report shall list all raptors in possession on the preceding thirtieth day of June and any raptor held during the year—by species, sex (if known), age (if known), date acquired and where or from whom acquired, and whether the raptor escaped, died, was recaptured, or was released during this time period and ~~when the date on which~~ the event occurred.

ITEM 6. Amend rule 571—101.5(481A) as follows:

571—101.5(481A) Other provisions.

101.5(1) ~~No permittee shall purchase, offer for sale, sell, trade or barter any native raptors acquired from the wild in Iowa. A holder of a federal raptor propagation permit may not sell, trade, barter, purchase, or offer for sale any captive-reared, properly marked raptor of a native species nesting in Iowa, except captive-reared peregrine falcons (*Falco peregrinus*), hybrids of peregrine falcons, and nonnesting species. Any raptor captured with a research radio transmitter attached must be reported to the department within five days, and the raptor shall be released immediately.~~

101.5(2) No permittee may take, purchase, receive or otherwise acquire, sell, barter, transfer, or otherwise dispose of any raptor unless such permittee submits federal Form 3-186A (Migratory Bird Acquisition/Disposition Report), completed in accordance with the instructions on the form, to the issuing regional fish and wildlife service office within five days of such transaction. ~~Falconry permit holders~~ A falconry permittee shall notify the department of natural resources in writing of the death, replacement, loss, release or temporary transfer or other such change in the status of ~~their~~ the permittee's raptors within five days of such occurrence; ~~provided, however, that written.~~ Written authorization shall be obtained from the department of natural resources before a replacement raptor may be secured; ~~and further provided that each.~~ Each dead bird raptor shall be surrendered to the department of natural resources or disposed of at the department's direction. Primary, secondary, and tail feathers may be retained and exchanged from these birds ~~for imping purposes only to imp or repair broken feathers.~~

101.5(3) Raptor exportation and importation permits may be issued to resident and nonresident falconers licensed to practice falconry in other states. Such permits shall be issued only when the export or import term will exceed 30 days. In the case of exportation or importation terms of less than 30 days, the permittee shall have in possession a photocopy of raptor possession documentation (Form 3-186A) and a photocopy of a valid state or federal falconry permit. Persons wishing to participate in hunting will be required to possess appropriate hunting licenses or permits.

101.5(4) A falconry permit holder shall obtain written authorization from the department of natural resources before any raptor not indigenous to the state is intentionally released to the wild, at which time the marker band from the released ~~bird~~ raptor shall be removed and surrendered to the department of natural resources. The marker band from an intentionally released ~~bird~~ raptor which is indigenous to the

state shall also be removed and surrendered to the department of natural resources. A standard federal bird band shall be attached to such ~~birds~~ raptors by the state or a service-authorized federal bird bander whenever possible. A falconer shall not permanently release a captive-bred raptor to the wild.

101.5(5) A raptor possessed under a state/ or federal falconry permit may be temporarily held by a person other than the permittee only if that person is otherwise authorized to possess raptors; and only if the raptor is accompanied at all times by the properly completed Form 3-186A (Migratory Bird Acquisition/Disposition Report) designating the permittee as the possessor of record and by a signed, dated statement from the permittee authorizing the temporary possession.

101.5(6) A general or master falconer may charge a fee for presentation of a raptor education program to the public. The fee cannot exceed the amount required to cover the falconer's expenses.

101.5(7) When a hybrid or exotic falconry bird is flown free, it must be fitted with two working radio telemetry transmitters.